

SUSAN R. HARPER
Claimant

U.S.D. NO. 383

Respondent

**KANSAS ASSOCIATION OF SCHOOL BOARDS
SELF-INSURED FUND**

Insurance Carrier

ORDER

ISSUES

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board, before discussing the merits of respondent's appeal, will first address the issue of whether it has jurisdiction to review the preliminary hearing order. The only benefit requested by claimant at the preliminary hearing was temporary total disability compensation. The Administrative Law Judge granted claimant's request.

The Appeals Board has limited jurisdiction to review Administrative Law Judge's findings made pursuant to the preliminary hearing statute. The appealing party has to either allege that the Administrative Law Judge exceeded his jurisdiction pursuant to K.S.A. 1997 Supp. 44-551(b)(1), or raise a jurisdictional issue listed in K.S.A. 1997 Supp. 44-534a(a)(2). The Appeals Board has had the opportunity on other occasions to address whether it has jurisdiction to review an Administrative Law Judge's preliminary hearing order that grants or denies the request for temporary total disability compensation. The preliminary hearing statute, K.S.A. 1997 Supp. 44-534a(a)(2), specifically authorizes the Administrative Law Judge to grant or deny temporary total disability compensation or medical compensation pending a full hearing on the matter. The Appeals Board finds, at this juncture of the proceeding, the Administrative Law Judge did not exceed his jurisdiction when he granted claimant's request for temporary total disability compensation.

Therefore, the Appeals Board finds it lacks jurisdiction to review this preliminary hearing order.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the respondent's application for review should be, and is hereby, dismissed and the preliminary hearing Order for Compensation entered by Administrative Law Judge Bryce D. Benedict dated July 2, 1998, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of August 1998.

BOARD MEMBER

c: Seth G. Valerius, Topeka, KS
Anton C. Anderson, Kansas City, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director